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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,645	02/27/2002	Kazuhiro Namba	F-7335	8626
28107	7590	07/19/2004	EXAMINER	
JORDAN AND HAMBURG LLP 122 EAST 42ND STREET SUITE 4000 NEW YORK, NY 10168			COBURN, CORBETT B	
			ART UNIT	PAPER NUMBER
			3714	

DATE MAILED: 07/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/085,645	Applicant(s) NAMBA ET AL. CM	
	Examiner Corbett B. Coburn	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 6-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's amendments to the specification and the title overcome the objections thereto.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3 & 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baba (US Patent Number 6,406,371) in view of Hughes et al. (US Patent Number 4,918,603).

Claims 1 & 9: Baba teaches a data delivery system for game machine (10) that is connected to a network (20). There is a storage means (33) for storing various types of data and transmits prescribed data from the server to a family game machine via a network (20). There is a delivery authorization determination means for determining whether or not the family game machine is authorized to receive data delivery when a request for data delivery is received from said family game machine. (Col 2, 3-25 describes the logon procedures.) Baba teaches data delivery means (i.e., the Internet) for transmitting data to said family game machine based on an instruction from the delivery authorization determination means. Baba teaches that the data delivered from said server is information pertaining to game characters appearing in a game. (i.e., team members or real life characters) (Col 1, 25-42 & Col 6, 56 – Col 7-8)

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Baba teaches that the data storage unit stores information relating to a performance of each player character, but does not disclose how this data is derived. Hughes teaches a database storing information relating to a performance of each player character that fluctuates based on periodic game results for the corresponding real player. (Abstract) Access to this database is optional (Fig 1) but if used, it ensures that the data is realistic and adds to player interest. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Baba in view of Hughes to have the option of accessing a database storing information relating to a performance of each player character that fluctuates based on periodic game results for the corresponding real player in order to ensure that the database disclosed by Baba is realistic, thus adding to player interest.

Claim 2: Baba teaches that the determination performed by said delivery authorization determination means regarding whether or not data delivery is authorized is performed based on an ID number received from said family game machine, and said ID number is an ID number unique to a readable recording medium that stores data necessary for communication between said family game machine and said server. (Col 2, 3-25 describes the first identification number as being associated with a memory device.)

Claim 3: Baba teaches that the determination performed by said delivery authorization determination means regarding whether or not data delivery is authorized is performed based on both said ID number unique to the readable recording medium and an ID number unique to the family game machine (i.e., the second identification number), which are received from said family game machine. (Col 2, 3-25)

Claim 6: Hughes teaches that said information stored in the data storage unit is updated on a periodic basis according to game result. (Abstract) While Hughes discloses weekly updates for NFL statistics, this is equivalent to daily updates – NFL teams only play one game a week. In cases where the teams play more than once a week, (e.g., baseball, cricket, basketball, etc.), it would be obvious to update the scores on a daily basis to reflect the playing schedule. This would ensure that the scores were kept as up-to-date as possible.

Claim 7: Baba teaches a match-style game. It is not clear whether the game characters appearing therein are simulations real life characters that are real athletes and the data delivered from said server pertains to game results for these real athletes. Pearson teaches a match-type game in which the game characters appearing therein are simulations real athletes and the data delivered from said server pertains to game results for these real athletes. Hughes teaches that such fantasy leagues are extremely popular. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Baba in view of Hughes to include a match-type game in which the game characters appearing therein are simulations real athletes and the data delivered from said server pertains to game results for these real athletes in order to implement fantasy sports leagues.

Claim 8: Baba teaches that when a data delivery request is received from said family game machine, said delivery authorization determination means of the server stores the date and time of the first access and authorizes data delivery for only a prescribed period of time. (Fig 9, S64)

Response to Arguments

4. Applicant's arguments with respect to claims 1-3 & 6-9 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corbett B. Coburn whose telephone number is (703) 305-3319. The examiner can normally be reached on 8-5:30, Monday-Friday, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's primary, Jessica Harrison can be reached on (703) 308-2217. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



cbc



JESSICA HARRISON
PRIMARY EXAMINER